

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

JOE ANDREW SALAZAR,

Plaintiff,

v.

AT&T MOBILITY LLC,
SPRINT/UNITED MANAGEMENT
COMPANY, T-MOBILE USA, INC.,
AND CELLCO PARTNERSHIP D/B/A
VERIZON WIRELESS,

Defendants

and

HTC CORP., and HTC AMERICA, INC.,

Intervenors.

Civil Action No. 2:20-cv-4

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to Eastern District of Texas Local Patent Rule 4-3 and the Court's First Amended Docket Control Order (Dkt. No. 83), Plaintiff Joe Andrew Salazar ("Plaintiff" or "Salazar") and Defendants AT&T Mobility LLC ("AT&T Mobility"), Sprint/United Management Company ("Sprint"), T-Mobile USA ("T-Mobile"), and Cellco Partnership, Inc. d/b/a Verizon Wireless ("Verizon") and Intervenors HTC Corp. and HTC America, Inc. (collectively, "Defendants and Intervenors") hereby submit this Joint Claim Construction and Prehearing Statement pursuant to P.R. 4-3. The patent involved in this case is U.S. Patent No. 5,802,467 ("the '467 Patent"), attached hereto as Exhibit A. The patent claims that are asserted in the above-referenced case are claims 1-7, 27-30 and 34 of the '467 Patent.

A. P.R. 4-3(a): Agreed Constructions, Points of Agreement and Request For Determination as Part of Markman Process

Term	Agreed Construction
“A communications, command, control and sensing system for communicating with a plurality of external devices comprising.”	Preambles of independent claims 1 and 34 are substantive limitations and the clause “communications, command, control and sensing system” in each such preamble does not need to be further construed.
“External device”	A device separate from the handset and the base station.

B. P.R. 4-3(b): Proposed Constructions of Disputed Terms; Intrinsic and Extrinsic Evidence

Plaintiff’s Proposed Constructions of Disputed Terms:

Consistent with the principles of issue preclusion and the precedent of this Court, Plaintiff proposes that the Court should adopt its claim construction decisions as set out in *Salazar v. HTC Corp.*, 2:16-cv-01096-JRG with respect to all asserted claims in this case.

Additionally, Defendants and Intervenor’s P.R. 4-2 proposed expert witness testimony disclosure is insufficient and lacks the necessary information or notice to permit rebuttal testimony at this stage. Other than conclusory statements that Dr. Wolfe will explain “how a person of ordinary skill in the art would understand the meaning of this term” and “that this term, when read in light of the intrinsic record, fails to reasonably inform those skilled in the art about the scope of the alleged invention,” Defendants provide no notice as to which term or set of terms within the phrase at issue Dr. Wolfe believes is/are indefinite or the grounds/bases for his opinion.

In *Salazar v. HTC, Corp.*, (2:16-cv-01096-JRG), Defendants’ privy and Intervenor in this case, HTC Corp., previously asserted (in the parties’ P.R. 4-3 disclosure) that it “objects to expert

testimony because only intrinsic evidence is relevant to claim construction in this case.” *See* Exhibit C. Defendants now assert that they will rely on expert testimony. Consistent with the principles of issue preclusion, Plaintiff asserts that Defendants should be precluded from introducing extrinsic evidence that they both argued was inappropriate and they did not introduce in the prior case.

In rebuttal to Defendants’ proposed extrinsic evidence, should the Court permit Dr. Wolfe to testify, Plaintiff provides notice to Defendants that he intends to rely on the rebuttal testimony of Dr. Oded Gottesman in compliance with Fed. R. Civ. P. 26(a)(2)(B)(i)-(ii). Dr. Gottesman will testify (from the perspective of one with ordinary skill in the art at the time of the invention) in rebuttal to Defendants’ claim that certain claim terms are indefinite.

Plaintiff’s proposed constructions of each disputed claim term, phrase, or clause, together with an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence known to Plaintiff on which it intends to rely either to support Plaintiff’s proposed constructions or to oppose Defendants’ proposed constructions, including dictionary definitions and citations to learned treatises are attached as Exhibit B.

Defendant’s Proposed Constructions of Disputed Terms:

A. P.R. 4-3(c): Anticipated Length of Hearing.

The claim construction hearing in this action is scheduled to occur on July 22, 2020 at 1:30 p.m. in Marshall, Texas before Judge Rodney Gilstrap. The parties anticipate that 3 hours will be required, with each side being allotted 1.5 hours.

B. P.R. 4-3(d): Witnesses.

C. P.R. 4-3(e): Other Issues for a Prehearing Conference

None.

Date: April 29, 2020

Respectfully submitted,

/s/

Kelly Tidwell

TX Bar No. 20020580

kbt@texarkanalaw.com

Geoffrey Culbertson

TX Bar No. 24045732

gpc@texarkanalaw.com

PATTON, TIDWELL & CULBERTSON, LLP

2800 Texas Boulevard

Texarkana, Texas 75503

Telephone: 903-792-7080

Telecopier: 903-792-8233

Dariusz Keyhani

District of Columbia Bar No. 1031500

Frances H. Stephenson

New York registration No. 5206495

Keyhani LLC

1050 30th Street NW

Washington, DC 20007

T. 202.748.8950

F. 202.318.8958

dkeyhani@keyhanillc.com

fstephenson@keyhanillc.com

Attorneys for Plaintiff

[Attorneys for Defendants]